



## Join Us in Advancing Women's Rights

Legal Momentum advances the rights of women and girls by using the power of the law and creating innovative public policy. We work to end violence against women, gain economic justice for women, and assure equality under the law.

Our **Equality Works** program is a broad-ranging effort to make the rebuilding of Lower Manhattan a model of equal opportunity for women in the skilled construction trades.

To learn more about us, please visit [www.legalmomentum.org](http://www.legalmomentum.org).

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## Know Your Rights:

A Tradeswoman's Guide to Employment  
Discrimination and Sexual Harassment  
2008

As a tradeswoman you have a right to equal employment opportunities and a safe, harassment free workplace. This means that you do not have to tolerate:

- Employment discrimination or
- Sexual harassment at work.

### What Is Employment Discrimination?

It is illegal for a union or an employer to treat people differently because of sex, race, religion, sexual orientation, or national origin. Here are situations to look for:

- **Hiring** -- Company refuses to hire you and makes comments about your race or gender: "We already have a flag girl" or "This isn't a government site, so we don't have to hire women." You put your name on the union out-of-work list, but men who are lower on the list are sent out first.
- **Work Assignments** -- You are often given dangerous jobs or only assigned to clean up. Everyone else on the job gets overtime work but you do not, even though you ask.
- **Layoffs** -- You lose your job in the first wave of layoffs even though you were on the job longer than men who were not laid off.
- **Promotion** -- You ask about promotion but no one explains the process, or it is based on who you know or your family ties.
- **Work conditions** -- There is no women's bathroom, or it is dirty or hard to reach; or the protective gear is made for men and does not fit.

If you think you are experiencing employment discrimination contact Legal Momentum and we can help you figure out what your options are (see page 7).

### What is Sexual Harassment?

Sexual harassment is **unwelcome** verbal, visual, or physical **conduct** because of your **sex** that is **severe or happens frequently** and **affects working conditions** or creates a **hostile work environment**.

**Unwelcome** -- It is important to let the other person know by your words, actions, or in writing that his conduct is unwelcome and you want it to stop.

### Sexual Conduct

- **Verbal or Written** -- Your co-workers or supervisors constantly make comments about your appearance, ask you out, or talk about sexual encounters or fantasies.

### Legal Momentum Equality Works Program

Legal Momentum can help you choose an effective strategy for dealing with employment discrimination or sexual harassment. Ask for the Equality Works program.  
Phone: 212-925-6635

### Operation Punch List (OPL)

Operation Punch List is an independent tradeswomen organization in the New York City area.  
Phone: 212-925-6635

### Association for Union Democracy (AUD)

Pro-union organization that can help you deal with your union and get copies of your collective bargaining agreement and union constitution.  
Phone: 718-564-1114

### National Employment Lawyers

**Association Referral Service**  
Provides referrals for \$25 half hour consultations with employment lawyers.  
Phone: 212-819-9450

### The Equal Employment Opportunity Commission (EEOC)

The EEOC is the federal agency that enforces anti-discrimination laws. Call 800-669-4000 to find the nearest office.

### Women's Rights at Work

A sexual harassment and gender discrimination outreach and education project that provides support, information and resources to women who have experienced sexual harassment in the workplace.  
Phone: 1-888-979-7765 ext. 42

### If you have been sexually assaulted or a victim of a crime:

#### SAFE Horizon

24-hour Crime Victim Hotline  
212-577-7777

#### Domestic Violence Hotline

800-621-4673

#### Sexual Assault Hotline

212-227-3000

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**4. File a Complaint With a Government Agency**

The Equal Employment Opportunity Commission is the federal agency that investigates and enforces anti-discrimination laws. You do not need a lawyer to file with the EEOC, but one may be helpful. Contact Legal Momentum for assistance if you are considering filing a government complaint (see page 7 for contact information).

**Remember that government agencies have strict deadlines starting from the day you were discriminated against:**

- In New York the deadline is 300 days.
- In New Jersey the deadline is 180 days.
- In Connecticut the deadline is 180 days.

**5. File a Lawsuit**

If you are not satisfied with the outcome of your grievance or complaint with a government agency, you have the right to file a lawsuit. If your suit is successful, you could receive money damages, your job back, or a court order to make your employer change its practices. If you choose to file a lawsuit you should keep in mind:

- Just filing a lawsuit could change how your employer or union treats all women.

However:

- Lawsuits can take years to resolve.
- They are financially and emotionally draining.
- It may be difficult to find a lawyer.
- Filing a lawsuit may damage your reputation in the trade and make it harder for you to find a job.

Contact Legal Momentum (see page 7) if you are considering filing a lawsuit.

- **Physical** -- You are touched, fondled, or kissed against your will.
- **Nonverbal** -- Guys on the job make sexual gestures, stare at you, or follow you around the site.
- **Visual** -- There are sexually explicit posters, drawings, or pictures at the job site.

**Conduct Because of Your Sex** -- If you are given a hard time because you are a woman, this is sexual harassment:

- You get constant comments about how women can't do the job.
- Because you are a woman, other workers damage your equipment, drop things on you, or you are assigned dangerous tasks alone.

**Severe** -- Usually one or two inappropriate incidents are not enough to constitute sexual harassment, but it may be enough if the incident is extremely serious such as attempted rape.

*OR*

**Persistent** -- Look for a pattern of behavior or a series of incidents.

- Have there been several incidents?
- How frequent is the behavior?
- Are others also being harassed?

**Affecting Working Conditions**

- You are turned down for a job or promotion because you reject a sexual advance by a supervisor.
- The harassment makes you so uncomfortable that you have to miss work to avoid harassment.

**Hostile Work Environment**

If your jobsite is so threatening, unsafe, unpleasant, or offensive that you find it hard to do your job, then it may be a hostile work environment.

**Retaliation**

It is illegal for an employer to retaliate (take revenge) against you for reporting an incident of discrimination or sexual harassment.

- After reporting an incident of sexual harassment you are fired or demoted or you find yourself blackballed from other jobs.

## what you CAN DO ABOUT IT

What can you do if faced with employment discrimination or sexual harassment?

- Keep good records
- Know your options and weigh the risks

### Keep Good Records

Write down what happens in a separate book or journal because it helps you remember details, find people who can back up your story, and paint a clearer picture of what happened. Keep a record even if you have no intention of using it, because someday it might help another tradeswoman prove a case against the same person.

- **Keep the records in a safe place – not at work.**
- **Only write down the facts, not your feelings or other events.**

**Shaping Record** -- Every time you shape a job, write down:

- Date, time, address, project name, general contractor, and subcontractor at the site;
- How you heard that there was work available, including the full name, position, and company of any person you talked to about whether work is available, and whether your union sent you there;
- What you were told when you asked for work;
- Whether you were allowed to leave your name, qualifications, and contact details;
- Full name and contact details of anybody who went with you;
- Name, gender, race, and contact details of anyone you know who was hired at the site, and when and how that person was hired; and
- Whether the person in charge of hiring made any comments about gender or race.

### Documenting Harassment

Write down all comments and incidents, including specifics such as the date, exactly what was said to you and information about where and when incidents occurred. Be sure to include:

- The name of the harasser and whether it is a coworker or supervisor.
- The name of any witnesses who can back up your story.

### Know Your Options and Weigh the Risks

There are many different ways of addressing employment discrimination and sexual harassment, and the strategy that you choose will depend on your long-term goals and your own sense of what will work in your situation. **Keep in mind that there are very strict deadlines for filing a complaint with a federal agency or a lawsuit.** Other things to consider:

- What will the effect be on my reputation, my job, my personal safety, and my relationship with my union?
- If I challenge my employer, will my union support me?
- Are other tradeswomen experiencing the same problems?
- What has worked for me or other women faced with similar situations in the past?

## know your OPTIONS

Legal Momentum can help you choose an effective strategy for dealing with employment discrimination or sexual harassment. **Here are some of your options:**

### 1. Informal Strategies

- **Speak up** – Tell your harasser you object to his behavior. Tell your supervisor you want better work assignments.
- **Tell someone in charge** – Talk to a supervisor or shop steward, explain your problem, and ask for help. If your shop steward is the problem, find one from another shift.
- **Put it in writing** – If talking doesn't work, write a letter to your supervisor or your union explaining your problem and requesting action.

### 2. Use a Nondiscrimination or Sexual Harassment Policy

Find out whether the company or your union has a non-discrimination or sexual harassment policy and a procedure for making a complaint. If you do not know whether there is a complaint procedure you can use, ask someone you trust or the person at your job who takes care of company employment issues.

### 3. File a Grievance with Your Union

One of the main duties of a union is to represent its members in formal complaints against employers. Find out about this process by reading your union's collective bargaining agreement and constitution. As a union member you have a right to this information, so ask a union representative or other union members how to get a copy, or contact Association for Union Democracy for help (see page 7).

**Collective Bargaining Agreement (CBA) or Union Contract** – This is the negotiated agreement between your union and your employer that includes information about your rights at work, including complaint procedures and deadlines. The CBA may also contain a non-discrimination and sexual harassment policy.

**Union Constitution and By-Laws** – These set out the structure of your union and the rules for filing a complaint. Try to get a copy of both the Local and International Constitution and By-Laws.

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